STATE OF NEW YORK

3596--B

2023-2024 Regular Sessions

IN SENATE

February 1, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to residential solar tax credits

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subsection (g-1) of section 606 of the tax law, as amended by chapter 378 of the laws of 2005, paragraphs 1 and 2 as amended by chapter 375 of the laws of 2012, paragraph 3 as amended, paragraph 5 as added, and paragraphs 6, 7 and 8 as renumbered by chapter 128 of the laws of 2007, is amended to read as follows:

(g-1) Solar energy system equipment credit. (1) General. An individual taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty-five percent of qualified solar energy system equipment expenditures, except as provided in subparagraph (D) of paragraph two of this subsection. This credit shall not exceed three thousand seven hundred fifty dollars for qualified solar energy equipment placed in service before September first, two thousand six, [~~and~~] five thousand dollars for qualified solar energy equipment placed in service on or after September first, two thousand six **and before January first, two thousand twenty-five, and ten thousand dollars for qualified solar energy equipment placed in service on or after January first, two thousand twenty-five**.

(2) Qualified solar energy system equipment expenditures. (A) The term "qualified solar energy system equipment expenditures" means expenditures for:

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(i) the purchase of solar energy system equipment which is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as [~~his or her~~] **their** principal residence at the time the solar energy system equipment is placed in service;

(ii) the lease of solar energy system equipment under a written agreement that spans at least ten years where such equipment owned by a person other than the taxpayer is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as [~~his or her~~] **their** principal residence at the time the solar energy system equipment is placed in service; or

(iii) the purchase of power under a written agreement that spans at least ten years whereunder the power purchased is generated by solar energy system equipment owned by a person other than the taxpayer which is installed in connection with residential property which is (I) located in this state and (II) which is used by the taxpayer as [~~his or her~~] **their** principal residence at the time the solar energy system equipment is placed in service.

(B) Such qualified expenditures shall include expenditures for materials, labor costs properly allocable to on-site preparation, assembly and original installation, architectural and engineering services, and designs and plans directly related to the construction or installation of the solar energy system equipment.

(C) Such qualified expenditures for the purchase of solar energy system equipment shall not include interest or other finance charges.

(D) Such qualified expenditures for the lease of solar energy system equipment or the purchase of power under an agreement described in clauses (ii) or (iii) of subparagraph (A) of this paragraph shall include an amount equal to all payments made during the taxable year under such agreement. Provided, however, such credits shall only be allowed for fourteen years after the first taxable year in which such credit is allowed. Provided further, however, the twenty-five percent limitation in paragraph one of this subsection shall only apply to the total aggregate amount of all payments to be made pursuant to an agreement referenced in clauses (ii) or (iii) of subparagraph (A) of this paragraph, and shall not apply to individual payments made during a taxable year under such agreement except to the extent such limitation on an aggregate basis has been reached.

(3) Solar energy system equipment. The term "solar energy system equipment" shall mean an arrangement or combination of components utilizing solar radiation, which, when installed in a residence, produces **and may store** energy designed to provide heating, cooling, hot water or electricity for use in such residence. Such arrangement or components **may include electric energy storage equipment but** shall not include **any other** equipment connected to solar energy system equipment that is a component of part or parts of a non-solar energy system or which uses any sort of recreational facility or equipment as a storage medium. Solar energy system equipment that generates **and stores** electricity for use in a residence must conform to applicable requirements set forth in section sixty-six-j of the public service law. Provided, however, where solar energy system equipment is purchased and installed by a condominium management association or a cooperative housing corporation, for purposes of this subsection only, the term "ten kilowatts" in such section sixty-six-j shall be read as [~~"fifty~~] **"ten** kilowatts **multiplied by the number of owner-occupied units in the cooperative or condominium management association**."

(4) Multiple taxpayers. Where solar energy system equipment is purchased and installed in a principal residence shared by two or more taxpayers, the amount of the credit allowable under this subsection for each such taxpayer shall be prorated according to the percentage of the total expenditure for such solar energy system equipment contributed by each taxpayer.

(5) Proportionate share. Where solar energy system equipment is purchased and installed by a condominium management association or a cooperative housing corporation, a taxpayer who is a member of the condominium management association or who is a tenant-stockholder in the cooperative housing corporation may for the purpose of this subsection claim a proportionate share of the total expense as the expenditure for the purposes of the credit attributable to [~~his~~] **their** principal residence.

(6) Grants. For purposes of determining the amount of the expenditure incurred in purchasing and installing solar energy system equipment, the amount of any federal, state or local grant received by the taxpayer, which was used for the purchase and/or installation of such equipment and which was not included in the federal gross income of the taxpayer, shall not be included in the amount of such expenditures.

(7) When credit allowed. The credit provided for herein shall be allowed with respect to the taxable year, commencing after nineteen hundred ninety-seven, in which the solar energy system equipment is placed in service.

(8) Carryover of credit **and refundability**. If the amount of the credit, and carryovers of such credit, allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, such excess amount may be carried over to the five taxable years next following the taxable year with respect to which the credit is allowed and may be deducted from the taxpayer's tax for such year or years. **For taxable years beginning on or after January first, two thousand twenty-five, if the amount of the credit allowable under this subsection shall exceed the taxpayer's tax liability for such year, and the taxpayer meets the definition of low-to-moderate income or resides in a disadvantaged community, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.**

§ 2. This act shall take effect immediately.